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7 *Attorneys for the Trust and Individual Defendants*

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
10

11 ZURICH AMERICAN INSURANCE
12 COMPANY,

13 Plaintiff,

14 v.

15 AMERICAN WEST HOMES, INC., a
Nevada corporation; WHITNEY RANCH,
16 INC., a Nevada corporation; FEDERAL
LAND MANAGEMENT, LLC, a Nevada
17 limited liability company; CACTUS SAND
& GRAVEL, INC., a Nevada corporation;
18 WEST MESA, LLC, a Nevada limited
liability company; CORONADO HILLS,
19 LLC, a Nevada limited liability company;
ADAVEN MANAGEMENT, INC., a
20 Nevada corporation; LAWRENCE
CANARELLI, as trustee of THE
21 CANARELLI FAMILY TRUST DATED
SEPTEMBER 14, 1990; LAWRENCE AND
22 HEIDI CANARELLI, as trustees of THE
LAWRENCE AND HEIDI CANARELLI
23 1993 IRREVOCABLE TRUST;
LAWRENCE CANARELLI and HEIDI
24 CANARELLI, as trustees of the THE
STACIA LEIGH LEMKE IRREVOCABLE
25 TRUST; LAWRENCE CANARELLI and
HEIDI CANARELLI, as trustees of THE
26 JEFFREY LAWRENCE GRAVES
CANARELLI IRREVOCABLE TRUST; ED
27 LUBBERS, as trustee of THE SCOTT
LYLE GRAVES CANARELLI
28 IRREVOCABLE TRUST; LAWRENCE

Case No. 2:15-cv-01815-MMD-GWF

**STIPULATION AND ORDER FOR
DISMISSAL WITHOUT PREJUDICE
AND TO AMEND THE COMPLAINT**

CANARELLI and HEIDI CANARELLI, as trustees of THE ALLYSA LAUREN GRAVES CANARELLI IRREVOCABLE TRUST; LAWRENCE D. CANARELLI and HEIDI CANARELLI, individually; DOES I-X; and ROE COMPANIES XI-XX, inclusive.

Defendants.

Pursuant to Fed. R. Civ. P. 41(a)(1)(ii), Local Rule 7-1(b), NRS 78.585 and NRS 86.505, plaintiff Zurich American Insurance Company (“Zurich”), by and through its counsel of record, and defendants Adaven Management, Inc., Lawrence D. Canarelli, as trustee of The Canarelli Family Trust Dated September 14, 1990, Lawrence D. Canarelli, as trustee of The Lawrence and Heidi Canarelli 1993 Irrevocable Trust, Lawrence D. Canarelli, as trustee of The Alysa Lawren Graves Canarelli Irrevocable Trust (incorrectly identified as “The Allysa Lauren Graves Canarelli Irrevocable Trust” in the caption), Lawrence D. Canarelli, as trustee of The Stacia Leigh Lemke Irrevocable Trust, Lawrence D. Canarelli, as trustee of The Jeffrey Lawrence Graves Canarelli Irrevocable Trust, Heidi Canarelli, as trustee of The Lawrence and Heidi Canarelli 1993 Irrevocable Trust, Heidi Canarelli, as trustee of The Alysa Lawren Graves Canarelli Irrevocable Trust (incorrectly identified as “The Allysa Lauren Graves Canarelli Irrevocable Trust” in the caption), Heidi Canarelli, as trustee of The Stacia Leigh Lemke Irrevocable Trust, Heidi Canarelli, as trustee of The Jeffrey Lawrence Graves Canarelli Irrevocable Trust, Edward C. Lubbers (identified as Ed Lubbers in the Amended Complaint), as trustee of The Scott Lyle Graves Canarelli Irrevocable Trust, Heidi Canarelli, individually, and Lawrence D. Canarelli, individually (collectively the “Answering Defendants”), by and through their counsel of record, hereby stipulate and agree:

1. To dismiss the following named defendants without prejudice, with each party to bear its own costs and attorneys’ fees:

- American West Homes, Inc. The Certificate of Dissolution and Nevada’s Secretary of State website show American West Homes, Inc. dissolved and ceased operations on January 29, 2004;
- Cactus Sand & Gravel, Inc. The Certificate of Dissolution and Nevada’s

Secretary of State website show Cactus Sand & Gravel, Inc. dissolved and ceased operations on December 15, 2008;

- West Mesa, LLC. The Articles of Dissolution and Nevada’s Secretary of State website show West Mesa, LLC dissolved and ceased operations on December 27, 2006;
- Coronado Hills, LLC. The Articles of Dissolution and Nevada’s Secretary of State website show Coronado Hills, LLC dissolved and ceased operations on December 27, 2006; and,
- Whitney Ranch, Inc. The Certificate of Dissolution and Nevada’s Secretary of State website show Whitney Ranch, Inc. dissolved and ceased operations on April 20, 2009.

2. Lawrence D. Canarelli’s Motion to Deem Service of Process Insufficient (Doc. 36) is now moot as a result of this Stipulation and Order.

3. The Amended Complaint (Doc. 23) identifies “Federal Land Management, LLC” as a defendant, and Zurich served “Federal Land Management Limited Liability Company” (“FLM”) with process (Doc. 30). The Certificate of Dissolution and Nevada’s Secretary of State website show FLM dissolved and ceased operations on December 30, 1998, and is likewise hereby dismissed without prejudice.

4. Zurich’s Policy No. GLO 3503901-00 (the “Policy”) identifies a “Federal Land Management, LLC” in its Named Insured Schedule. It has been represented to Zurich that the expectation was that Federal Lands Management LLC (“FLsM”) was the named insured, not FLM. Therefore, Zurich and Answering Defendants stipulate to amend the Amended Complaint (Doc. 23) to add FLsM as a defendant, to remove the allegations pertaining to FLM and to add

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1 allegations regarding FLsM. Pursuant to Local Rule 15-1, attached is the proposed Second
2 Amended Complaint.

3 Dated this 12th of November, 2015.

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12 *Attorneys for the Answering Defendants*

13 Dated this 12th of November, 2015.

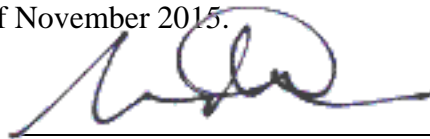
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21 Las Vegas, Nevada 89106

22 *Attorneys for Plaintiff*

23 **ORDER**

24 IT IS SO ORDERED this 12th day of November 2015.

25 
26 UNITED STATES DISTRICT JUDGE
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AMERICAN WEST HOMES, INC., a Nevada corporation; WHITNEY RANCH, INC., a Nevada corporation; FEDERAL LANDS MANAGEMENT LLC, a Nevada limited liability company; CACTUS SAND & GRAVEL, INC., a Nevada corporation; WEST MESA, LLC, a Nevada limited liability company; CORONADO HILLS, LLC, a Nevada limited liability company; ADAVEN MANAGEMENT, INC., a Nevada corporation; LAWRENCE CANARELLI, as trustee of THE CANARELLI FAMILY TRUST DATED SEPTEMBER 14, 1990; LAWRENCE AND HEIDI CANARELLI, as trustees of THE LAWRENCE AND HEIDI CANARELLI 1993 IRREVOCABLE TRUST; LAWRENCE CANARELLI and HEIDI CANARELLI, as trustees of the THE STACIA LEIGH LEMKE IRREVOCABLE TRUST;

SECOND AMENDED COMPLAINT

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1 LAWRENCE CANARELLI and HEIDI)
CANARELLI, as trustees of THE)
2 JEFFREY LAWRENCE GRAVES)
CANARELLI IRREVOCABLE TRUST; ED)
3 LUBBERS, as trustee of THE SCOTT)
LYLE GRAVES CANARELLI)
4 IRREVOCABLE TRUST; LAWRENCE)
CANARELLI and HEIDI CANARELLI, as)
5 trustees of THE ALLYSA LAUREN)
GRAVES CANARELLI IRREVOCABLE)
6 TRUST; LAWRENCE D. CANARELLI and)
HEIDI CANARELLI, individually; DOES)
7 I-X; and ROE COMPANIES XI-XX,)
inclusive.)
8)
Defendants.)
9)
10)

11 Zurich American Insurance Company ("Zurich") complains and alleges as
12 follows:

13 NATURE OF THE ACTION

14 1. Defendants owe Plaintiff approximately \$200,000, based on a breach of
15 contract.

16 PARTIES, JURISDICTION AND VENUE

17 2. Plaintiff Zurich American Insurance Company is a New York
18 corporation with a statutory home office in New York, New York and its principal
19 place of business is in Schaumburg, Illinois. It is authorized to transact business in
20 Nevada.

21 3. Upon information and belief, defendant American West Homes, Inc.
22 ("American West") is a Nevada corporation, conducting business in the State of
23 Nevada.

24 4. Upon information and belief, defendant Whitney Ranch, Inc. ("Whitney
25 Ranch") is a Nevada corporation, conducting business in the State of Nevada.

26 5. Upon information and belief, defendant Federal Lands Management
27 LLC ("FLM") is a Nevada limited liability company, conducting business in the State
28 of Nevada.

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1 6. Upon information and belief, the manager of FLM is Investment
2 Manager, Inc. (“Investment Manager”). Upon information and belief, Investment
3 Manager is a Nevada corporation.

4 7. Upon information and belief, defendant Cactus Sand & Gravel, Inc.
5 (“CSG”) is a Nevada corporation, conducting business in the State of Nevada.

6 8. Upon information and belief, defendant West Mesa, LLC (“West Mesa”)
7 is a Nevada limited liability company, conducting business in the State of Nevada.

8 9. Upon information and belief, the managing member of West Mesa is
9 Collins Family Limited Liability Company No. 1 (“Collins Family LLC”). Upon
10 information and belief, the manager of West Mesa is Canarelli Family Trust. Upon
11 information and belief, Pauline Collins (“Collins”) is the manager of the Collins
12 Family LLC. Upon information and belief, the trustee of the Canarelli Family Trust
13 is Lawrence Canarelli (“Canarelli”). Upon information and belief, both Collins and
14 Canarelli are Nevada residents.

15 10. Upon information and belief, defendant Coronado Hills, LLC (“Coronado
16 Hills”) is a Nevada limited liability company, conducting business in the State of
17 Nevada. Upon information and belief, Canarelli Family Trust and Collins Family
18 LLC are the managers of Coronado Hills.

19 11. Upon information and belief, defendant Adaven Management, Inc.
20 (“Adaven”) is a Nevada corporation, conducting business in the State of Nevada.

21 12. Upon information and belief, defendant The Canarelli Family Trust
22 dated September 14, 1990 (“Canarelli Family Trust”) is a Nevada trust. Upon
23 information and belief, Canarelli is the sole trustee of Canarelli Family Trust.

24 13. Upon information and belief, defendant The Lawrence and Heidi
25 Canarelli 1993 Irrevocable Trust (the “Lawrence and Heidi Trust”) is a Nevada trust.
26 Upon information and belief, Canarelli and Heidi Canarelli (“Heidi”) are the trustees
27 of the Lawrence and Heidi Trust. Upon information and belief, Canarelli and Heidi
28 are Nevada residents.

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1 14. Upon information and belief, defendant The Stacia Leigh Lemke
2 Irrevocable Trust (“Lemke Trust”) is a Nevada trust. Upon information and belief,
3 Canarelli and Heidi are the trustees of the Lemke Trust.

4 15. Upon information and belief, defendant The Jeffrey Lawrence Graves
5 Canarelli Irrevocable Trust (“JLGC Trust”) is a Nevada trust. Upon information and
6 belief, Canarelli and Heidi are the trustees of the JLGC trust.

7 16. Upon information and belief, defendant The Scott Lyle Graves Canarelli
8 Irrevocable Trust (“SLGC Trust”) is a Nevada trust. Upon information and belief, Ed
9 Lubbers is the trustee of the SLGC trust. Upon information and belief, Ed. Lubbers
10 is a Nevada resident.

11 17. Upon information and belief, defendant The Allysa Lauren Graves
12 Canarelli Irrevocable Trust (“ALGC Trust”) is a Nevada trust. Upon information
13 and belief, Canarelli and Heidi are the trustees of the ALGC trust.

14 18. Upon information and belief, defendant Lawrence D. Canarelli is a
15 Nevada resident.

16 19. Upon information and belief, defendant Heidi Canarelli is a Nevada
17 resident.

18 20. The defendants referenced in paragraphs 2 through 19 will be
19 collectively referred to herein as “Defendants” or “Named Insureds.”

20 21. The acts and events giving rise to Zurich’s claims are based upon
21 Defendants’ conduct that occurred in Clark County, Nevada.

22 22. This Court has subject matter jurisdiction over this matter and personal
23 jurisdiction over Defendants pursuant to 28 U.S.C. §§ 1332 and 1348 because there is
24 complete diversity of citizenship and the amount in controversy exceeds \$75,000.

25 23. Zurich is a citizen of New York and has a principal place of business in
26 Illinois. None of the Defendants are New York or Illinois citizens. Therefore, there is
27 complete diversity of citizenship.

28 24. The amount in controversy exceeds \$75,000 because, as shown below,

1 the value of the object of this litigation—recovery under the breached contract—
2 exceeds \$75,000.

3 25. This Court is the appropriate venue for this action pursuant to 28
4 U.S.C. § 1391.

5 GENERAL ALLEGATIONS

6 26. Zurich issued a Large Construction Policy to American West effective
7 January 1, 2001 to January 1, 2002, Policy No. GLO 3503901-00 (the “Policy”).

8 27. The Policy has a Named Insured Schedule which includes, among other
9 entities, all of Defendants as a Named Insured.

10 28. The words “you” and “your” in the Policy refer to the Named Insured
11 shown in the Declarations, and any other person or organization qualifying as a
12 Named Insured under the Policy.

13 29. The Policy also provides that “Except with respect to the Limits of
14 Insurance, and any rights or duties specifically assigned in this Coverage Part to the
15 first Named Insured, this insurance applies . . . [a]s if each Named Insured were the
16 only Named Insured.”

17 30. The Policy contains a Broad Form Named Insured Endorsement
18 modifying the Named Insured to include:

19 any corporation, subsidiary, firm, organization, partnership or any other
20 entity as existed, as now exists or may here after be controlled, formed
21 or acquired where the First Named Insured shown in the Declarations
has ownership and/or management control for providing insurance.

22 31. The Policy also contains an Automatic Additional Insured Endorsement
23 which amends an Insured to include as an Additional Insured a “person or
24 organization with whom you have agreed, through written contract, agreement or
25 permit, to provide insurance as is afforded under this Policy but only with respect to
26 liability arising out of “your work” done for that insured by or for you.”

27 32. The Omnibus Named Insured Endorsement amends the Named Insured
28 to include “any newly formed entity with 50% or more common ownership of the

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1 Named Insured(s)” and “any homeowners association that is controlled or managed
2 by the Named Insured prior to the homeowners association purchasing their own
3 insurance.”

4 33. The Self Insured Retention deductible is \$50,000 per occurrence.

5 34. The Self Insured Retention “means the amount you *or any Insured* must
6 pay for all amounts which you shall become legally obligated to pay as damages
7 because of ‘bodily injury’, ‘property damage’ ‘advertising injury’ or ‘personal injury’
8 sustained by one or more persons or organizations, due to an ‘occurrence.’”
9 (Emphasis added.)

10 35. The Policy provides:

11 with respect to any claim under this insurance which has been tendered
12 to us and which may exceed the self insured retention amount shown in
13 the schedule of this endorsement for ‘per occurrence’ or ‘per claim’
14 whichever applies, we may pay for all of the self insured retention on
15 your behalf to defend or to effect settlement of such claim. **Such amount
paid by us shall [be] reimbursed promptly by you.**

16 36. Zurich has settled or defended four claims tendered to it under the
17 Policy, each claim exceeded the \$50,000 Self Insured Retention Deductible and
18 Zurich paid all amounts, including the \$50,000 amount owed as a result of the Self
19 Insured Retention.

20 37. Specifically, Claim No. 926-0069492 related to Stacy Spring was paid in
21 the amount of \$72,881.81. Thus, a payment of \$50,000 was due to Zurich on
22 December 20, 2010.

23 38. Additionally, Claim No. 926-0073586 related to Gary & Bailey Medina
24 was paid in the amount of \$70,000. Thus, a payment of \$50,000 was due to Zurich on
25 June 2, 2011.

26 39. Also, Claim No. 926-0106117 related to Darryl and Barbara Backman
27 was paid in the amount of \$79,992. Thus, a payment of \$50,000 was due to Zurich on
28 February 5, 2012.

1 40. In addition, Claim No. 926-0101438 related to Classic Development was
2 paid in the amount of \$64,306.80. Thus, a payment of \$50,000 was due to Zurich on
3 February 5, 2012.

4 41. Zurich sent invoices to American West for each claim in which payment
5 was made requesting that American West pay the \$50,000 deductible.

6 42. American West did not respond or pay the \$50,000 deductible on each
7 claim.

8 43. Accordingly, on June 26, 2012, Zurich sent a Demand Letter to the
9 Named Insureds requesting payment of the \$200,000 due and owing.

10 44. To date, Zurich has not received payment from any of Defendants.

11 45. Zurich is entitled to recover its attorneys' fees, costs, and interest.

12 **FIRST CLAIM FOR RELIEF**
13 **(Breach of Contract)**

14 46. Plaintiff repeats and realleges the allegations in paragraphs 1 through
15 45.

16 47. The Policy is a valid and enforceable contract between Zurich and
17 Defendants.

18 48. Zurich has fully performed its obligations under the Policy.

19 49. Defendants have breached the terms of the Policy by, among other
20 things, failing to pay Zurich, upon demand, the Self Insured Retention deductible of
21 \$50,000 for each claim paid on behalf of Defendants by Zurich.

22 50. Notwithstanding Zurich's demand, Defendants have refused to comply
23 with the terms of the Policy.

24 51. As a result of Defendants' breaches, Zurich has been damaged and is
25 entitled to a damage award in excess of \$75,000.

26 52. As a result of Defendants' breaches under the Policy, Zurich has
27 retained legal counsel to enforce its rights and remedies.

28 53. Zurich is entitled to recover its attorneys' fees and costs incurred herein.

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PRAYER FOR RELIEF

WHEREFORE, Zurich prays for the following relief:

(a) An award of damages in excess of \$75,000 for the breach of contract claim for relief, together with interest accruing at the default contractual rate until paid;

(b) An award of reasonable attorneys' fees and costs; and

(c) For such other and further relief as the Court may deem just and proper.

Dated this 11th day of November, 2015.

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